

2019 ANIMAL ABUSE AND DOMESTIC VIOLENCE CONFERENCE

Friday, October 4, 2019
Maricopa County Security Building
9th Floor Ballroom
222 N. Central Avenue,
Phoenix, Arizona



ARIZONA LIVESTOCK CRUELTY INVESTIGATIONS

Presented by:

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Animal Services Division Associate Director
Arizona Department of Agriculture

&

Captain Richard Shore

Animal Services Division
Arizona Department of Agriculture

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
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Arizona Livestock Cruelty Investigations



Presented by: Arizona Department of
Agriculture – Animal Services Division

Dispatch: (800)294-0305 or (623)445-0281

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Objectives

- Introduce the Arizona Department of Agriculture and explain our role in livestock cruelty investigations.
- Discuss and compare A.R.S. § 13-2910 and A.R.S. § 3-1721.
- Case Review of livestock related cruelty cases.
- Answer questions you may have about livestock cruelty.

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Arizona Department of Agriculture

- **Chris McCormack- Associate Director, Animal Services Division**
 - Oversee the Animal Services Division's 5 programs
 - Provide legal services to the Department
 - Educate Department employees and the public about Agriculture related issues.
- **Richard Shore – Chief Livestock Officer, Animal Services Division**
 - Supervised the law enforcement branch of the Department of Agriculture.
 - Provide training and guidance for officers and inspectors on criminal related issues.
 - Oversees the all of the Department's criminal investigations.

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Arizona Department of Agriculture



Today there are 6 Divisions:

1. Plant Services
2. Environmental Services
3. **Animal Services**
4. *Weights and Measures
5. *Pest Management Division
6. *Citrus, Fruit and Vegetable Div.



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Animal Services Division (ASD) Programs

1. Livestock Services
2. Dairy Program
3. State Vet's Office
4. Egg Program
5. Meat and Poultry



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Livestock Services Field Staff

1 Captain (full-time law enforcement officer)

8-10 Officers (full-time law enforcement officers)

8-10 Inspectors (full-time)

4 Deputies (part-time)

22 Total FTEs



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Livestock Services

Responsible for livestock inspections, but also respond to the Department's Animal Welfare complaints.

Our Welfare calls:

- Most complaints about Equine cruelty (>80 %) are unfounded
- Some are neighbor disputes
- Some are Zoning violations
- Educational contacts can clear the call
- Sometime warnings are enough to get the person in compliance
- There are time a case need to be submitted to court for cruelty

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Livestock Defined

"Livestock" means cattle, equine, sheep, goats and swine, except feral pigs."

"Equine" means horses, mules, burros and asses."

.. IT IS NOT ..

"Poultry" means any domesticated bird, whether live or dead, and includes chickens, turkeys, ducks, geese, guineas, ratites and squabs."

"Ratite" means ostriches, emus, rheas and cassowaries."

Rabbits, guinea pigs, llamas, alpacas, bison, wildlife, or zoo animals.

Source: ARS § 3-1101

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Two main statutes related to livestock cruelty

- A.R.S. § 13-2910. Cruelty to animals; interference with working or service animal; classification; definitions
- A.R.S. § 3-1721. Petition of seizure; notice of seizure; lien for expenses; forced sale; disposition of proceeds; nonliability of state; neglect or cruel treatment of equine; civil penalty; legal representation

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Common Livestock Cruelty Charges Under A.R.S. § 13-2910

A. A person commits cruelty to animals if the person does any of the following:

- *1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment. (Class 1 Misd.)
- *2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control. (Class 1 Misd.)
- 3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal. (Class 1 Misd.)
- *4. Recklessly subjects any animal to cruel mistreatment. (Class 1 Misd.)
- *8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal. (Class 6 Felony)
- *9. Intentionally or knowingly subjects any animal to cruel mistreatment. (Class 6 Felony)
- 14. Intentionally or knowingly subjects a domestic animal to cruel mistreatment. (Class 5 Felony)
- 15. Intentionally or knowingly kills a domestic animal without either legal privilege or consent of the domestic animal's owner or handler. (Class 5 Felony)

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A.R.S. § 13-2910 (A)(1) & (A)(8)

A person commits cruelty to animals if the person does any of the following:

- 1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
- 8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.

"Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.

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What is necessary food, water, or shelter?

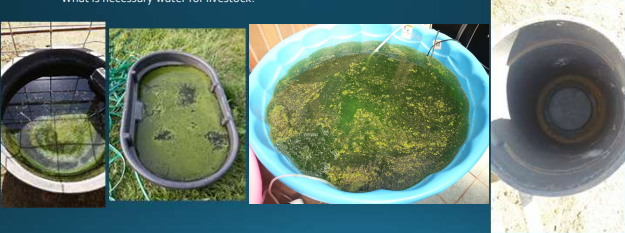
What is necessary feed for livestock?



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What is necessary food, water, or shelter?

What is necessary water for livestock?



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What is necessary food, water, or shelter?

Is shelter necessary for livestock?



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Cruel neglect or abandonment **that results in serious physical injury to the animal** is a Class 6 Felony.



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A.R.S. § 13-2910 (A)(2)

A person commits cruelty to animals if the person does any of the following:

2. Intentionally, knowingly or recklessly **fails to provide medical attention necessary to prevent protracted suffering** to any animal under the person's custody or control.

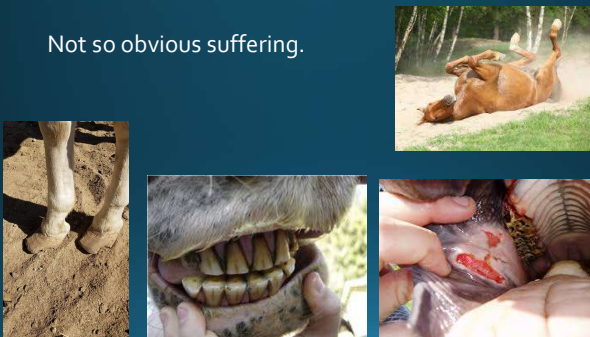
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Obvious Suffering



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Not so obvious suffering.



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A.R.S. § 13-2910 (A)(4) & (A)(9)

A person commits cruelty to animals if the person does any of the following:

- 4. Recklessly subjects any animal to cruel mistreatment.
- 9. Intentionally or knowingly subjects any animal to cruel mistreatment.

"**Cruel mistreatment**" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.

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"Cruel mistreatment"



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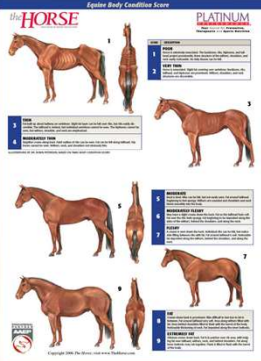
A.R.S. § 3-1721

A. Any person or peace officer who believes that an equine is in **poor physical condition** because of neglect or cruel treatment may petition on affidavit a justice of the peace of the precinct or a city magistrate of the city in which the equine is found for an order authorizing the department to take possession of and provide care for the equine for a fifteen-day period.

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What is poor Physical Condition and how do you tell?

The Henneke horse body condition scoring system is a numerical scale used to evaluate the amount of fat on a horse's body. It was developed with the goal of creating a universal scale to assess horses' bodyweight. It is a standardized system that can be used across all breeds without specialized equipment; condition is assessed visually and by palpation and the scores range from 1 to 9 with one being poor and nine being extremely fat. The ideal range for most horses is from 4 to 6. The system is used by law enforcement agencies as an objective method of scoring a horse's body condition in horse cruelty cases.



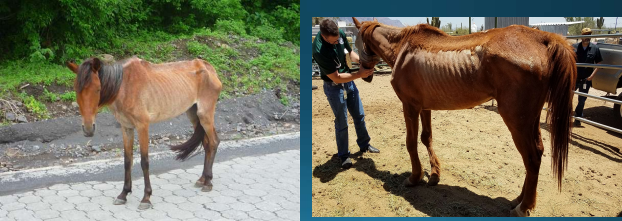
The Department will seize a horse in poor physical condition if its Body Condition Score (BCS) is a 1 or 2.

ABCS of 1 means the horse is extremely emaciated; no fatty tissue; vertebrae, ribs, tail head, and bones of withers, shoulder, and neck are visible.

ABCS of 2 means the horse is emaciated; slight tissue cover over bones; vertebrae, ribs, tail head, and bones of withers, shoulder, and neck are visible.

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BCS of a 1 **BCS of a 2**



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A.R.S. § 3-1721 (Continued)

- In order to seize under this section, the affidavit must attest that the livestock custody trust fund has a balance that permits the Department to provide care for the animals.
- Upon receiving the petition, the court must set a hearing 5-15 days out.
- The Department serves the owner or posts the notice if the owner is unknown.
- At the hearing, the court will determine if the horse was in poor physical condition because of neglect or cruel treatment:
 - **If NO**, the horse goes back to the owner and no expenses are incurred for the care of the horse.
 - **If YES**, the horse is to be sold at auction or disposed of in a humane manner. Owner may be assessed a civil penalty of up to \$750 for the violation.

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Conflict between A.R.S. § 13-4281 and A.R.S. § 3-1721???

- Typically when animals are seized under A.R.S. § 13-1210, they are disposed of using A.R.S. § 13-4281.
- A.R.S. § 13-4281(D) indicates that the section does not apply to
 - "Activities permitted by or pursuant to title 3" and
 - "The seizure of an equine pursuant to section 3-1721"
- At first glance this seems to prohibit the use of 13-4281 for equines. However, the Department reads the statutes slightly different.

The AZDA has been advised that if a horse is being seized for a violation of 13-2910, it can be disposed of using 13-4281; but if the horse is in poor condition but does not rise to the level of a criminal violation of 13-2910 the horse can be seized and disposed of pursuant to A.R.S. § 3-1721.

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Caring for horses in our custody.

- The Department does not have a facility for seized livestock; we enter into agreements with local livestock facilities to provide feed and care for livestock in our custody.
 - Veterinary care while in our custody can range from \$50 to \$500.
 - We are charged \$7.50 per day per animal for the feed.
 - We are not a money generating customer for these facilities, so we are lower on the priority level.
- Generally when seized horses are sold at auction, we loose money.
 - Most of the horses that are seized need significant care in order to be rehabilitated.
 - The cost to rehabilitate a horse can be between \$500 and \$10,000 depending on the needs.
 - Once a seized horse is rehabilitated, they are typically only "pasture sound"
 - Because of this, they generally sell for less than \$100.00.
- In many cases, we Humanely dispose of the horse by awarding it to a rescue who is willing to provide the care needed by the horse. Other times the horse needs to be put down.

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Case Study – Horses in Northern AZ

- Farrier called reported numerous horses in various conditions of cruelty
 - Long hooves
 - Lamé
 - All needed hoof care
- Owner refused to provide hoof care because she didn't believe the farrier was doing it correctly.

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Case Study – Horses in Northern AZ

- Officers responded and found:
 - Extreme amounts of fecal matter throughout stalls
 - Visible wounds
 - Other signs of medical injuries (cancer)
 - Horses having trouble walking
 - Owner claimed the horses were under veterinary care
- Owner's Vet stated he was not providing any treatment at the time.
- A Search Warrant was obtained to enter the property to evaluate the horses.

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Case Study – Horses in Northern AZ

- State Vets office evaluated horses using three veterinarians.
- The veterinarian's observed horses that had good body condition scores.
- The horses had plenty of feed and water and were living in stalls within a covered barn.
- The hooves of the horses were in bad shape and were causing several of the horses to limp.
- All of the horses that were showing signs of being in pain were seized.

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Case Study – Horses in Northern AZ



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Case Study – Horses in Northern AZ



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Case Study – Horses in Northern AZ



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Case Study – Sheep in Southern AZ

- Officers responded to 300 sheep roaming the roadway (strays)
- Arrived on scene to find numerous sheep had been stuck in an irrigation canal
- 53 sheep died from drowning
- Over 100 head removed from canal
- Officer on scene had to euthanize one sheep due to injury from tractor removing sheep from canal
- Several other sheep were seen with injuries, and caretaker was directed to get veterinary care.

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Case Study – Sheep in Southern AZ

- Caretaker moved the injured sheep to another location.
- The sheep were ordered to be removed from the state for importation violations
- 11 days after the incident inspections were being done to remove the sheep

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Case Study – Sheep in Southern AZ

- During inspection one lamb was found to be walking on three legs. One leg was severed while being removed from the canal
- Numerous sheep were found dead or dying from injuries that occurred 11 days prior.
- Caretaker did not seek medical attention for the sheep that were injured.
- Numerous sheep had to be euthanized due to injuries.
- When asked why caretaker did not get vet care, she responded, "I just didn't think of it."

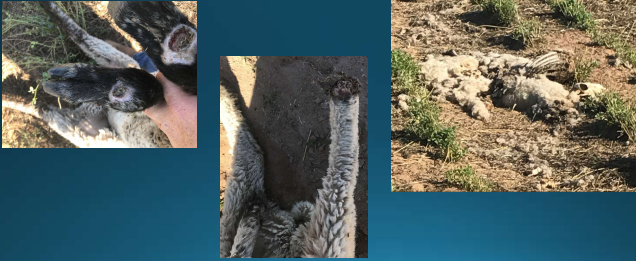
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Case Study – Sheep in Southern AZ



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Case Study – Sheep in Southern AZ



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Questions???

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